



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

☞ Appendix A ... segment I

LRB BILL HISTORY RESEARCH APPENDIX

☞ The drafting file for 2009 LRB-4787/P1 (For: DCF)

has been transferred to the drafting file for

2011 LRB-0146 (For: DOA-Budget)



RESEARCH APPENDIX - **PLEASE KEEP WITH THE DRAFTING FILE**

Date Transfer Requested: 09/28/2010 (Per: PJK)

☞ The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2009 DRAFTING REQUEST

Bill

Received: **08/11/2010**

Received By: **pkahler**

Wanted: **As time permits**

Companion to LRB:

For: **Children and Families 261-4349**

By/Representing: **Bob Nikolay**

May Contact:

Drafter: **pkahler**

Subject: **Dom. Rel. - child support/maint.**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Robert.Nikolay@wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Application of interest on child support arrears

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 08/12/2010	kfollett 08/13/2010		_____			State
/P1			mduchek 08/18/2010	_____	cduerst 08/18/2010		

FE Sent For:

<END>

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Bill

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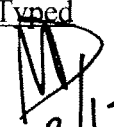
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/?	pkahler	1P/15f 8/13	 8/13				

FE Sent For:

<END>

Kahler, Pam

From: Nikolay, Robert A - DCF [Robert.Nikolay@wisconsin.gov]
Sent: Wednesday, August 11, 2010 3:57 PM
To: Kahler, Pam
Cc: Chesnik, Connie - DCF
Subject: DCF Biennial Budget Stat Language Drafting Requests

Attachments: CS Distirbution Stat.doc

Attached is another drafting request for the Department of Children and Families that may be included in our Sept. 15 budget request.



CS Distirbution
Stat.doc (30 K...

The federal discussion of interest is contained in Action Transmittal OCSE-AT-98-24 in the response to Question 21, which I have excerpted here.

QUESTION 21: Does a State that charges interest on arrearages, which by statute is considered "child support" have the option to apply collections in excess of current support to either the interest first or to the arrearages first?

ANSWER 21: Interest on arrearages would also be classified as an arrearage payment. State law would determine when the interest accrued and it would be distributed as any other arrearage accruing during that time period (i.e. pre-assistance, during-assistance, or post-assistance arrearages). State law would also determine whether the original arrearage or the interest accrued for that time period was paid first, but States must determine the ownership and distribution of such collections in accordance with sections 402(a)(8) and 457 of the Act and OCSE-AT-97-17.

Here is the link to the full Action Transmittal: <http://www.acf.hhs.gov/programs/cse/pol/AT/1998/at-9824.htm>

Bob Nikolay
Budget Director
Office of Performance and Quality Assurance
Wisconsin Department of Children & Families
(608) 261-4349

**Department of Children and Families
2011-13 Biennial Budget
Statutory Language Request**

Topic: Child Support Distribution Changes

Current Language:

Under current state law at s.767.511 Wis Stats, child support collections must be applied first, to current support due for the month, then to arrears balances due, and then to interest balances due.

Proposed Change:

Under current federal regulations, child support collections must be applied as follows:

For **current TANF** cases:

- 1) Current support due for the month
- 2) State-owed arrears balances due
- 3) State-owed *interest* balances due
- 4) Family-owed *arrears* balances due
- 5) Family-owed interest balances due

For **former TANF** cases:

- 1) Current support due for the month
- 2) Family-owed arrears balances due
- 3) Family-owed *interest* balances due
- 4) State-owed *arrears* balances due
- 5) State-owed interest balances due

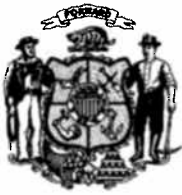
Amend s. 767.511 to create an exception to the existing distribution hierarchy outlined in that section where required by federal law and regulations.

Justification:

Federal law treats interest as a part of the child support arrears balance. Under the federal regulations, in current TANF cases, collections must be applied to *state* owed arrears, including interest, prior to applying any collections to *family* owed arrears or interest. As a result, state owed interest will be paid prior to family owed arrears, in conflict with s. 767.511. Similarly, in former TANF cases, collections must be applied to *family* owed arrears, including interest prior to applying any collections to *state owed arrears or interest*. As a result, family-owed interest will be paid prior to state-owed arrears, another conflict with s. 767.511. Creating the exception anticipates any subsequent changes in federal law so the statutes wouldn't have to be amended if the federal requirements change.

Desired Effective Date: Upon enactment

Agency Contact: Connie Chesnik
267-7295



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4787/1

PJK: [Signature]

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(w 8-12)

Gen cat

1 **AN ACT**; relating to: the distribution of child support payments.

Analysis by the Legislative Reference Bureau

Current law requires that payments received for child support be applied first to child support that is due in the month in which the payment is received, then to any unpaid child support that was due before the payment was received, and finally to any interest that has accrued on unpaid child support. Under federal law, payments received for child support must be distributed in a different order if the payee is receiving or has received aid under the Temporary Assistance for Needy Families (TANF) block grant program. This bill provides an exception to the order in which payments received for child support are distributed if federal statutes or regulations require a different order.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 767.511 (6) (intro.) of the statutes is amended to read:
3 767.511 (6) INTEREST ON ARREARAGE. (intro.) A party ordered to pay child
4 support under this section shall pay simple interest at the rate of 1% per month on
5 any amount in arrears that is equal to or greater than the amount of child support

1 due in one month. If the party no longer has a current obligation to pay child support,
2 interest at the rate of 1% per month shall accrue on the total amount of child support
3 in arrears, if any. Interest under this subsection is in lieu of interest computed under
4 s. 807.01 (4), 814.04 (4), or 815.05 (8) and is paid to the department or its designee
5 under s. 767.57. Except as provided in s. 767.57 (1m) and except as required under
6 federal statutes or regulations, the department or its designee shall apply all
7 payments received for child support as follows:

History: 1971 c. 157; 1977 c. 29, 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.25; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 27, 37, 355, 413; 1989 a. 31, 212; 1991 a. 39; 1993 a. 481; 1995 a. 27 ss. 7101, 7102, 9126 (19); 1995 a. 201, 279, 404; 1997 a. 27, 35, 191; 1999 a. 9, 32; 2001 a. 16, 61; 2005 a. 253, 342; 2005 a. 443 ss. 103, 105, 219; Stats. 2005 s. 767.511; 2009 a. 185.

8 **SECTION 2. Initial applicability.**

9 (1) ORDER OF DISTRIBUTION OF CHILD SUPPORT PAYMENTS. This act first applies to
10 payments for child support that are received on the effective date of this subsection.
11

(END)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4787/P1
PJK:kjf:md

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12 (END)